

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

AUDREY K. MILLER

*Plaintiff,*

v.

SAM HOUSTON STATE UNIVERSITY  
AND TEXAS STATE UNIVERSITY  
SYSTEM

*Defendants,*

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CIVIL ACTION NO.: 4:15-cv-2824

JURY DEMANDED

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**DEFENDANTS' RULE 26(a)(2) DISCLOSURE OF EXPERT TESTIMONY**

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To: Plaintiff Audrey K. Miller, by and through her attorney of record, Terrence B. Robinson, TB Robinson Law Group, PLLC, 7500 San Felipe Street, Suite 800, Houston, Texas 77063.

Pursuant to Local Rule CV-26(b), Defendants, Sam Houston State University, and Texas State University System (collectively, "Defendants"), hereby serve their Rule 26(a)(2) Disclosure of Expert Testimony:

1. Defendants hereby designate the following expert who may be called to testify at trial. Defendants incorporate the substance of the expert's written report, if any, as if specifically stated herein to the extent that they provide the general substance of the expert's mental impressions and opinions and the basis for them. Further, once the following expert witness has given a deposition or other testimony in this case, Defendants incorporate said testimony as supplemental information regarding the expert's opinions and mental impressions and the bases for same:

Benjamin S. Lyles  
Office of the Attorney General  
General Litigation Division  
P. O. Box 12548  
Austin, Texas 78711-2548  
(512) 463-2120

The foregoing may testify regarding the necessity and reasonableness of attorneys' fees, costs and expenses incurred by the parties to this lawsuit. To date, Plaintiff has not stated the actual amount of attorneys' fees, costs and expenses she seeks in this case. As such, the identified attorney witness is currently unable to determine whether any attorneys' fees, costs or expenses Plaintiff may seek to recover in this case are either necessary or reasonable. Mr. Lyles's general opinion is that the rates and/or amounts stated in the Engagement Agreement between Plaintiff and her counsel are not a reasonable and necessary fee/hourly rate in this case. His opinions about the necessity and reasonableness of attorneys' fees, costs and expenses incurred by the parties to this lawsuit are based upon his review of any relevant file documents, Plaintiff's counsel's fee agreements and invoicing for the attorney's fees and expenses sought, and any other documents produced by Plaintiff and/or offered at or after trial in support of Plaintiff's claim for attorney's fees; his knowledge of the prevailing rates in the community, together with his skill, experience in handling such matters, and his training and education. Other facts which will be considered are: (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill required to perform the legal services properly; (2) the fee customarily charged in the locality for similar services; (3) the amount involved and the results obtained; (4) the time limitation imposed by the client or the circumstances; and (5) the experience, reputation and ability of the lawyers' performing the services. Mr. Lyles may also offer opinions as to the reasonable and necessary fees and expenses through trial, the amount of post-judgment motions and enforcement of the judgment, and post-judgment appeals whether or not petition for review is granted. He may also testify in response to any testimony offered by any other party in this lawsuit on any subject that is within their area of expertise. His mental impressions and opinions will be based upon his experience, training, education, as well as his familiarity with reasonable hourly rates charged in the community, various surveys conducted by the Texas Lawyer and other institutions regarding reasonable hourly rates in the community, and their knowledge of awards in other cases, as well as the several factors required to be considered under the Texas Disciplinary Rules § 1.04 and applicable case law. The identified attorney witness has reviewed copies of all of the correspondence, pleadings, and discovery in this case, as well as the applicable legal standards for the award of attorneys' fees.

2. Defendants reserve the right to supplement its designation of experts with additional experts and opinions on each of the subjects on which other parties designate an expert and provide a report and/or deposition testimony. Defendants also reserve the right to call undesignated rebuttal expert witnesses, whose testimony cannot reasonably be foreseen until the presentation of the evidence against Defendants.
3. Finally, discovery is ongoing and Defendants reserve the right to supplement this designation with additional designations of experts within the time limits imposed by the court or

any alterations of same by subsequent court order or agreement of the parties, or pursuant to the Federal Rules of Civil Procedure.

Respectfully submitted,

KEN PAXTON  
Attorney General of Texas

BRENT WEBSTER  
First Assistant Attorney General

GRANT DORFMAN  
Deputy First Assistant Attorney General

SHAWN COWLES  
Deputy Attorney General for Civil Litigation

CHRISTOPHER D. HILTON  
Chief - General Litigation Division

/s/ Benjamin Lyles  
BENJAMIN S. LYLES  
Texas State Bar No. 24094808  
Southern District ID No. 3062156  
Attorney-in-Charge  
Assistant Attorney General  
Office of the Attorney General  
General Litigation Division  
P.O. Box 12548  
Austin, Texas 78711-2548  
Telephone: (512) 463-2120  
Facsimile: (512) 320-0667  
[benjamin.lyles@oag.texas.gov](mailto:benjamin.lyles@oag.texas.gov)  
**ATTORNEYS FOR DEFENDANTS**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument was served via the CM/ECF system on this the 9th day of November 2022, to:

Terrence B. Robinson  
TB Robinson Law Group, PLLC  
Texas Bar No. 17112900  
Southern District No: 14218  
7500 San Felipe St., Suite 800  
Houston, Texas 77063  
Telephone: (713) 568-1723  
Facsimile: (713) 965-4288  
[TRobinson@TBRobinsonlaw.com](mailto:TRobinson@TBRobinsonlaw.com)  
**ATTORNEY FOR PLAINTIFF**

/s/ Benjamin Lyles  
BENJAMIN S. LYLES  
Assistant Attorney General